

(2012) 03 KAR CK 0146

Karnataka High Court

Case No: Criminal Revision Petition No. 799 of 2009

Venkatesh

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision: March 13, 2012

Acts Referred:

- Motor Vehicles Act, 1988 - Section 134 A, 134 B
- Penal Code, 1860 (IPC) - Section 279, 304 A

Hon'ble Judges: V. Jagannathan, J

Bench: Single Bench

Advocate: Somashekar Kashimath, for the Appellant; P. Karunakar, HCGP, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

V. Jagannathan

1. This petition is by the accused who has been convicted by the Trial Court in respect of the offences punishable under Sections 279, 304A of IPC and Sections 134-A and 134-B of the Indian Motor Vehicles Act and the consequent sentence passed by the Trial Court, also being confirmed by the Lower Appellate Court by dismissing the petitioner's appeal. The appellate Court reduced the sentence to only three months in respect of Section 304A of IPC instead of six months and Rs. 5,000/- was imposed as fine. The case of the prosecution in short is that on 10.11.2001 at about 3 p.m. on Siddaiahnapura-Kumbeshwara Temple Road, the accused drove the Lorry bearing registration No. CAW-5614 in a rash and negligent manner and dashed to a boy aged 7 years. On account of the said accident, the boy died.

2. The complaint filed by one Mahadevashetty-PW-1, the father of the deceased boy, lead to a case being registered against the accused and on completion of the investigation, charge sheet was filed. The accused pleaded not guilty. The prosecution lead the evidence by examining PWs.1 to 10 and 10 documents were marked. The accused lead no defence evidence. The Trial Court accepted the case of the prosecution as having been established beyond all reasonable doubt and accordingly, the accused was convicted in respect of the aforementioned offences. He war sentenced to one month imprisonment and Rs. 1,000/- fine for Section 279 of IPC, six months imprisonment and 75,000/- fine in respect of Section 304A of IPC and similar period of six months and Rs. 200/- fine in respect of Section 134-A and 134-B of the IMV Act. The Lower Appellate Court confirmed the conviction, but modified the sentence as mentioned earlier.

3. Learned Counsel, Sri Somashekar Kashimath, for the petitioner argued that the width of the road was only 10 feet and therefore, the accused could not have driven the lorry in question at high speed. Moreover, the injured boy was on the extreme right side of the road and as such the evidence on record is not sufficient to convict the petitioner. That apart, only PW-1-Mahadevashetty, father of the boy, has deposed in respect of the accident. The rest of the witnesses have not seen the accident. Therefore, the conviction be set aside and in the event of this Court is not interfering with the conviction, the sentence be reduced.

4. The submission of Sri Karunakar, learned HCGP for the State, is that the concurrent findings of the Courts below calls for no interference and the manner in which the accident occurred itself sufficiently establishes the rash and negligent driving on the part of the accused. The sentence imposed also is on the lower side.

5. Having thus heard both sides and considering the evidence on record, particularly that of PW-1, the complainant, the view taken by the Courts below that the accident occurred on account of rash and negligent driving on the part of the petitioner appears to be based on evidence and the conclusion reached therefore, cannot be termed as perverse in nature. Therefore, the submission put forward by the petitioner"s counsel does not impress me.

6. As fax as sentence is concerned the sentence was reduced to three months by the Lower Appellate Court, though the minimum sentence for Section 304A being six months. The sentence is also on the lower side. However, as the State has not preferred any appeal questioning the sentence, no interference is called for even regarding the sentence. For the above reasons, the petition lacks merit and is dismissed.